

HCS SB 57 -- CERTAIN CIVIL ACTIONS

SPONSOR: Romine (Engler)

COMMITTEE ACTION: Voted "Do Pass" by the Committee on General Laws by a vote of 9 to 6.

This substitute changes the laws regarding construction management services, nuisance abatement, City of Farmington ordinances, local hospital sales tax, and damages for certain civil actions.

CONSTRUCTION MANAGEMENT SERVICES

The substitute allows a construction manager and any construction firm that he or she controls to bid and perform any of the actual construction on a public works project. Currently, a construction manager and any construction firm that he or she controls is not permitted to perform any of the work.

CITIES OF FARMINGTON AND PERRYVILLE NUISANCE ABATEMENT

The substitute allows the cities of Farmington and Perryville to remove weeds or trash without a hearing or notice from a property that has more than one ordinance violation within a growing season for overgrown weeds or within a calendar year for trash.

The cities may recoup the costs of the removal from the property owner by issuing a special tax bill to be collected with other taxes assessed against the property. If the bill is not paid when due, the cities may charge 8% interest on the amount owed.

The provisions of the substitute do not apply to lands owned by a public utility and any lands, rights-of-way, and easements controlled by a railroad.

CITY OF FARMINGTON ORDINANCES

The substitute authorizes the city council of the City of Farmington to also adopt or repeal any ordinance by submitting the proposed ordinance to the registered voters of the city at the next municipal election.

LOCAL HOSPITAL SALES TAX

The substitute authorizes the board of trustees of a hospital in a third class city with the concurrence of the city council, the governing body of any county which has established a county hospital or the governing body of any hospital district established under Chapters 96, 205, and 206, RSMo, to abolish its property tax

to fund the operations of a hospital and to impose, upon voter approval, a sales tax of up to 1% on all retail sales and on specified sales of metered water services, electricity, electrical current and natural, artificial or propane gas, wood, coal, or home heating oil for domestic use made within the city, county, or district. The Department of Revenue will deposit the sales tax into the appropriate newly created City of the Third Class City Hospital Sales Tax Fund, the County Hospital Sales Tax Fund, or the Hospital District Sales Tax Fund, less 1% for the cost of collection which is to be deposited into the General Revenue Fund.

#### DAMAGES FOR CERTAIN CIVIL ACTIONS

This substitute specifies that in all civil actions involving claims arising from the ownership, maintenance, management, or control of underground hard rock mining or hard rock milling sites that ceased operations prior to January 1, 1975, or arising from chat or tailings generated at those sites, brought against a person or entity alleged to have owned, maintained, managed, or controlled the sites, chat, or tailings at any time, the person or entity must be exempt from punitive or exemplary damages to all claims related in any way to the ownership, maintenance, management, or control of the sites, chat, or tailings, as long as the person or entity or its employee, agent, owner, parent, subsidiary, or any related company has made or is making a good faith effort to remediate the sites.

Any evidence may be introduced to demonstrate a good faith effort to remediate; however, substantial compliance with an order or permit issued by or negotiated with the state or the United States concerning remediation or closure must be deemed to be a good faith effort to remediate. The exemption from punitive damages does not apply if the trier of fact finds that the injury that is the subject of the civil action is attended by circumstances of fraud, malice, or willful and wanton conduct.

When a good faith effort to remediate a site has not been made or the injury is found to be attended by circumstances of fraud, malice, or willful and wanton conduct, the total of any awards of punitive or exemplary damages must not exceed \$500,000 in the aggregate to all defendants in the civil action. One-half of any award for punitive or exemplary damages must be paid into the Missouri Lead Abatement Loan Fund. Nothing in these provisions can be construed as precluding any party from pursuing compensatory damages, including claims for natural resource damages.

**PROPONENTS:** Supporters say that the bill is needed to help properly control nuisances in these cities.

Testifying for the bill was Senator Romine.

OPPONENTS: There was no opposition voiced to the committee.